IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 701 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANANSINGH RAMASHRESINGH RAJPUT - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR NIRAL R MEHTA for Applicant(s) : 1,
MR AY KOGJE, APP for Respondent(s) : 1,
RULE SERVED BY DS for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 09/05/2007

ORAL JUDGMENT

This petition challenges the order of externment passed by the Competent Authority against the petitioner on 10th January 2007.

2. A show cause notice under section 59 of the Bombay Police Act came to be issued to the petitioner on 2.8.2006. The petitioner replied to the show cause notice on 21st August 2006. The Competent Authority passed the impugned order on 10.1.2007 ordering externment of the petitioner for a period of two years, which however upon appeal of the petitioner, came to be reduced to one year.

3. Learned advocate Shri Niral Mehta for the petitioner has pressed this petition mainly on two grounds. He firstly submitted that in the show cause notice, the authorities have placed reliance on two criminal cases filed against the petitioner in November 2004 and September 2005 alleging his involvement in offence punishable under sections 294, 323, 506 and 114 of the Indian Penal Code. He submitted that the order which is passed in January 2007 thus is much belated and the incidents are stale. It is further pointed out that in the show cause notice though it is stated that the statements of secret witnesses are attached, no such statements have been supplied to the petitioner. A specific ground in this regard has been raised in ground (c) of the petition.

4. Having heard the learned advocates appearing for the parties, I find that there is no reply filed to the averments of the petitioner that along with show cause notice, statements of the secret witnesses

were annexed. Not even the minimum detail regarding the contents of such statements and the involvement of the petitioner in any other criminal activities was supply to him. That being so, the impugned order cannot be sustained since the petitioner was denied an opportunity to make an effective representation. Additionally, I also find that the alleged involvement of the petitioner in two criminal cases was in the year 2004 and 2005 whereas after much delay, in January 2007 on the basis of this involvement of the petitioner, his externment came to be ordered. Therefore, on both these grounds, the impugned order of externment is required to be quashed.

5. In the result, the petition is allowed. The impugned order of externment is quashed. Rule is made absolute.

Direct service is permitted.

(Akil Kureshi, J.)

(vjn)